

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

LE SHAWN NICKELSON,

:

Petitioner,

Case No. 1:11-cv-334

:

-vs-

District Judge S. Arthur Spiegel  
Magistrate Judge Michael R. Merz

Warden, Chillicothe Correctional  
Institution,

:

Respondent.

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**DECISION AND ORDER DENYING APPLICATION FOR AN ORDER TO SHOW  
CAUSE**

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This habeas corpus case is before the Court on Petitioner's Application for an Order to require Respondent's counsel Gregory Hartke to show cause why he should not be held in criminal contempt of court (Doc. No. 74).

Petitioner tendered this document to the Clerk with the caption Nickelson v. Hartke and without the above case number. The undersigned ordered the Application docketed in this case. If, instead, Petitioner wished to file a new civil case, he is required to comply with the Prison Litigation Reform Act of 1995 by paying the full filing fee, as well as preparing the summons and copies of the complaint for service. Any new civil case related to the habeas corpus allegations in this case would, in all probability, be consolidated with this case.

Petitioner's Application claims that Mr. Hartke is in contempt of court by not submitting sufficient evidence with the Return of Writ to show there sufficient evidence to support a conviction.

Nickelson relies on that portion of Magistrate Judge Litkovitz's Order for an answer that refers to what must be filed if there is a habeas corpus claim that the conviction is against the manifest weight of the evidence. No such claim is made in the Petition. (See quotation of Grounds for Relief in Report and Recommendations, Doc. No. 37, PageID 1066-1067.) In any event, this case did not go to trial so there was never a need for the prosecutor to submit any evidence. Petitioner misunderstands Judge Litkovitz's Order and his own claims.

Petitioner also seeks an order to show cause on the claim that Mr. Hartke has committed fraud on this Court by filing Exhibit 69. As the Magistrate Judge has repeatedly advised the Petitioner, the fact that the document is not time-stamped by the clerk of courts does not mean that it is not genuine and in fact the Magistrate Judge has repeatedly explained why it appears to be genuine.

The Application for an order to show cause is denied.

February 24, 2012.

s/ **Michael R. Merz**  
United States Magistrate Judge